



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 520

IN THE MATTER
OF
EDWARD J. KENNEDY, JR.

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Edward J. Kennedy, Jr. ("Kennedy") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On November 8, 1994, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Kennedy. The Commission has concluded its inquiry and, on April 11, 1995, found reasonable cause to believe that Kennedy violated G.L. c. 268A, §23.

The Commission and Kennedy now agree to the following findings of fact and conclusions of law:

1a Kennedy was, during the time relevant, a Middlesex County Commissioner. As such, Kennedy was a county employee as that term is defined in G.L. c. 268A, §1.

2a As of July 1994, Kennedy had filed nomination papers for the Democratic primary for Middlesex North District Register of Deeds. The North District is comprised of the City of Lowell and nine towns.

3a By mid-to-late July 1994, Kennedy had obtained voter registration lists as "checked" (indicating who had voted at the prior elections) for all of the nine towns in the North District, but not for the City of Lowell.^{1/}

4a On the evening of July 28, 1994, at Kennedy's request, two county employees^{2/} moved a Middlesex County copier from the county's office in Cambridge to the Election Office in Lowell.

5a At approximately 8:45 a.m. the next morning, at Kennedy's request, the same two county employees tried to use the above-described copy machine to copy the City of Lowell voter list. The copy machine would not work. (It was apparently out of toner.) One of the county employees so informed Kennedy. At approximately 11:00 a.m., Kennedy arrived at the Election Office. They still could not get the machine to work. Kennedy instructed the county employees to return the machine to Cambridge. They did so.^{3/} Meanwhile, Kennedy paid \$115 to have the voter list copied at a commercial copier.

6a Section 23(b)(2) prohibits a county employee from knowingly or with reason to know using or attempting to use his official position to secure for himself an unwarranted privilege of substantial value not properly available to similarly situated people.

7a A public employee's use of public resources of substantial value (\$50 or more) for private purposes (not otherwise authorized by law) amounts to the use of one's official position to secure an unwarranted privilege of substantial value. These resources include publicly provided stationery, office supplies, utilities, telephones, office equipment, office space, or other facilities.^{4/} Also included is the use of time on the public payroll.

8a By borrowing and attempting to use a county copy machine for campaign purposes (as described above), Kennedy used and/or attempted to use his official position to secure an unwarranted privilege of substantial value, thereby violating §23(b)(2).^{5/}

In view of the foregoing violations of G.L. c. 268A by Kennedy, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Kennedy:

(1) that Kennedy pay to the Commission the sum of five hundred dollars (\$500) as a civil penalty for violating G.L. c. 268A, §23(b)(2);

(2) that Kennedy waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: April 24, 1995

^{1/} In the City of Lowell, the Election Commission would permit examination of the voting lists as "checked" at its office during normal business hours, but would not provide a copy of the list nor provide means for copying.

^{2/} According to these county employees, they both were already volunteers in Kennedy's campaign.

^{3/} One county employee was on personal compensatory time. The other's supervisor charged him with two hours compensatory time when she found out what he had done that Friday morning.

^{4/} In May 1990, the County Commissioners issued a memo warning all county employees about various restrictions on their political activity, including that they could not use county copy machines for campaign purposes.

^{5/} It is unclear to what extent Kennedy knew or had reason to know that one county employee was on county time when he helped with the copier on Friday morning. If Kennedy so knew or had reason to know, this use of public employee time would also be unwarranted.